

**DECLARATION OF STEVE McGAW**  
**Senior Vice President – Corporate Development, Cingular Wireless LLC**

I, Steve McGaw, hereby declare the following:

**I. Biographical Information**

1. I am the Senior Vice President of Corporate Development with responsibilities for all mergers, acquisitions, equity investments and partnerships for Cingular Wireless LLC (“Cingular”). Most recently, I led Cingular’s valuation and analysis of its acquisition of AT&T Wireless Services, Inc. (“AWS”). Other projects which I have directed include the purchase of numerous wireless properties, network sharing joint ventures with T-Mobile and AWS, and the purchase of wireless spectrum from NextWave for \$1.4 billion covering 83 million potential customers in the United States.

2. During my 20 years in the business, I have held a variety of positions at SBC Communications Inc. (“SBC”) and AT&T Bell Labs, including Managing Director of Corporate Development and Vice President of Business Marketing, as well as sales, international and technology planning positions. My education includes an MBA from the University of Texas at Austin, a Masters of Science in Computer Science at Northwestern University, and a BS in Industrial Engineering at Purdue University.

**II. Introduction/Synopsis**

3. At the time of the formation of Cingular in 2000, each of SBC and BellSouth Corporation (“BellSouth”) were regional wireless providers attempting to compete with the national wireless service of five of the wireless carriers. The creation of Cingular, by combining the wireless operations of SBC and BellSouth, provided a foundation for the creation of a sixth

nationwide competitor in the mobile voice market. As a near nationwide competitor, Cingular was able to provide wireless services more effectively and efficiently than either of its parents, SBC or BellSouth, would have been able to offer on its own.

4. The successful integration of the wireless operations of both companies resulted in expanded network coverage, reduced billing costs, better customer care, state of the art distribution, significant savings in purchasing, and one of the industry's most successful brand launches. Neither SBC nor BellSouth was likely to be able to accomplish these changes on a stand-alone basis. Cingular's experience in successfully integrating these operations to form a new national company makes it especially well qualified to further expand and enhance operations and deliver even greater synergies through the merger with AWS.

5. At the time of its creation, Cingular recognized the trend towards a national wireless marketplace. This trend was reflected in the increasing prevalence of "one rate" calling plans that were becoming nationwide in scope. This national market has continued to develop, as all of the six nationwide providers today offer one rate plans that are nationwide or nearly nationwide in scope. Indeed, as noted in the concurrently filed Declaration of Marc P. Lefar ("Lefar Declaration"), wireless customers today increasingly buy national pricing plans. Lefar also explains that Cingular's current strategy in response to the market is to sell only national and large regional plans, with its smallest regional plan encompassing at least an entire state, and in most cases multiple states.

6. Cingular also recognized that the proliferation of nationwide one rate plans would drive wireless carriers to secure their own nationwide networks. Again, this has proven to be the case, as carriers have sought to build nationwide footprints to enhance their ability to compete in the offering of nationwide pricing plans. In fact, by every major metric, competition in the

nationwide wireless market has increased since Cingular was created. Subscribership and minutes of use have increased, while prices continue to fall. Dissatisfied customers can and do readily switch providers, as high industry-wide churn rates continue to reflect. This trend can and will only increase with the advent of local number portability ("LNP").

7. As discussed in the Lefar Declaration, to remain competitive and meet customer demand, wireless providers must offer nationwide coverage with few or no holes or roaming charges, a superior voice network, and access to advanced high speed data and video services. In striving to do so, Cingular has largely consumed its present spectrum resources in areas where it holds spectrum. In addition, in order to provide similar features and services on a nationwide basis, Cingular needs to obtain spectrum and network assets in areas where it currently has neither. As the concurrently filed Technical/Network Declaration of William Hogg and Mark Austin ("Hogg/Austin Declaration") explains, Cingular's existing network capacity and infrastructure are strained, placing immediate and real limitations on its ability to simultaneously improve the quality of services offered today, sustain future growth and continue to develop and offer advanced services. These constraints have led Cingular to acquire spectrum on a piecemeal basis, most recently from NextWave, and to enter into network sharing joint ventures with T-Mobile and AWS.

8. While these piecemeal spectrum acquisitions and network joint ventures have helped to expand or augment Cingular's coverage in discrete areas, significant coverage gaps remain and many areas remain spectrum constrained. Importantly, the acquisition of additional spectrum alone to fill out gaps is not a solution. Without network assets and infrastructure to put spectrum to immediate use and expand network reach, improvements in network coverage and service must be delayed while network infrastructure is gradually built out. As a result, Cingular

requires not only a larger, more comprehensive geographic footprint, but also an established, compatible network that can be readily integrated into its existing network in order to begin promptly to address consumer demands for improved service and roll out of new advanced services.

9. The merger of AWS into Cingular will address these concerns, resulting in a number of pro-consumer synergies. By incorporating spectrum resources and compatible network assets into a comprehensive whole, customers of each company will have access to an expanded nationwide network with more reliable services, enhanced features and greater product offerings. Collectively, these synergies would not be achievable in the near term but for the integration of both spectrum resources and established networks covering a wider geographic area which will result from the merger. Moreover, because the merger will allow Cingular to combine the best practices of the two companies, consumers will gain in areas such as billing, customer service, and wireless LNP. Only through the merger can Cingular simultaneously improve existing service and customer care, expand network reach, and quickly and ubiquitously roll out new advanced wireless/third generation ("3G") services in the United States which are already available in other countries today.

10. The merged company will also be able to realize a number of pro-competitive synergies through savings in capital expenditures and operating expenses as costly duplication is reduced. As a result, the merged company will have greater resources to make it a more effective competitor, more readily able to both initiate and respond to changes in the marketplace.

### **III. Pro-Consumer Synergies**

11. The merger will result in a number of synergies that will result in tangible benefits to the subscribers of both companies, including improved network coverage and services, enhanced best practices, and cheaper and more varied equipment. The result will be improved overall consumer satisfaction leading to reduced churn, the totality of which would not otherwise occur absent the merger.

12. Improved network coverage. By merging networks, the combined company will offer an expanded nationwide footprint covering more areas combined than what either company today serves on its own. For example, Cingular currently has coverage in 87 of the top 100 metropolitan areas, covering approximately 220 million licensed POPs. The combined company will have spectrum in 49 of the 50 states, coverage in 97 of the top 100 metropolitan areas, and be able to serve approximately 264 million licensed POPs. The combined company will also have the spectrum and established infrastructure to fill in holes in each company's networks in existing service areas.

13. The merger allows the combined company to expand and fill out both carriers' networks in the near term because of the ability to integrate established and technically compatible operating networks and to utilize the greater spectrum resources of both companies. These are synergies that would not be available were either company to purchase bare spectrum in the marketplace, assuming sufficient spectrum was available for purchase. Without existing and compatible networks, the acquisition of new spectrum would require the concomitant acquisition of new tower sites and equipment, a time consuming and costly process that would significantly delay the ability to offer the improved coverage benefits customers demand. During this time, third party roaming agreements would be necessary to continue to provide

service to subscribers in the expansion areas. Reliance on roaming agreements is costly and facilitates offering only the most basic voice services.

14. Improved network services. By combining both companies' existing networks and collective spectrum holdings, network trunking efficiencies will be gained. The details of these trunking efficiencies are explained in the Hogg/Austin Declaration, but the net result is that spectrum resources will be available to meet customer demands for improved call quality and reliability and access to advanced wireless service offerings, as well as to facilitate subscriber growth on a more timely and efficient basis than either AWS or Cingular could accomplish on a stand-alone basis.

15. For example, enhanced spectrum resources will allow the merged company to sustain growth by utilizing additional spectrum in capacity constrained and high traffic areas. Doing so will also improve call quality and reduce dropped/blocked calls. Enhanced spectrum resources will also permit the merged company to expand features and functionalities to customers of both companies. Currently, there are certain features and functionalities available only to Cingular subscribers, and others are available only to AWS subscribers. For example, Cingular's "fast-forward" service, which allows mobile customers to forward their calls to their landline phone while in their homes, is not a service available to AWS customers. Other services, such multimedia messaging, are available to subscribers of each company but are not interoperable between them (e.g., Cingular customers cannot send/receive multimedia messages to/from AWS customers). The merger will foster greater interoperability and allow the best of existing features/functionalities to be available to the subscribers of both companies. In addition, because both companies are well into their planned evolution to Global System for Mobile Communications ("GSM") – the leading international wireless standard – the expanded and

enhanced footprint of the merged company will afford the benefits of GSM service to both subscribers and domestic and international GSM roamers using the combined network.

16. The merger will also produce spectrum that will allow the combined Cingular and AWS to expand into Universal Mobile Telephone System ("UMTS"), the broadband third generation standard for GSM. As discussed in the Hogg/Austin Declaration, UMTS provides the transmission capability necessary to offer spectrum-intensive high speed data services, which cannot be offered today by AWS or Cingular alone in most service areas due to spectrum constraints. Such services include multimedia messaging, mp3 music offerings, interactive gaming, text messaging and email, web surfing, longer downloadable video clips (*e.g.*, news, music, and sports clips), the ability to stream full-motion video content on demand, integrated cameras with higher resolution picture images, and location-based services (*e.g.*, mapping, directions and real-time traffic). The merger will also help enable the United States market to catch up with its international counterparts, including Japan and South Korea in Asia and parts of Europe, where 3G service offerings are much further advanced and substantial and adequate spectrum resources to support them have long been available.

17. Additional spectrum will also reduce the need for costly cell splitting. Not only is cell splitting a limited solution in capacity constrained service areas that cannot be used indefinitely, it requires the need for additional tower construction. The merger will lessen the need for new cell tower construction by reducing the need for cell splitting, which, in turn, diminishes environmental concerns associated with the proliferation of new tower construction. The merger will also allow additional tower space to be freed up, permitting collocation by other carriers and reducing the need for additional towers from that perspective as well.

18. While Cingular might be able to acquire additional spectrum in a piecemeal fashion over time in certain areas, only the merger will allow it ready access to needed spectrum across the board plus an established infrastructure to put it to use for the benefit of the customers of both companies in the near term. Moreover, the larger customer base, which would not be available immediately but for the merger, will enable the combined Cingular and AWS to justify the more rapid development and offering of new products and services by allowing costs to be spread out over a larger base. In addition, because the AWS network is technologically compatible with the Cingular network, the current advanced data offerings provided by AWS to its subscribers can be extended to Cingular customers and vice versa. This would not be the case with a spectrum-only acquisition or merger with a non-technically compatible carrier.

19. Enhanced best practices. As established nationwide providers, both Cingular and AWS have developed a series of practices to efficiently and effectively meet customer needs and comply with regulatory mandates. For example, in the course of forming Cingular, BellSouth and SBC consolidated nearly a dozen separate billing operations into two scalable systems and significantly reduced billing costs per subscriber. Cingular has also merged sixty separate customer service call centers into twenty more responsive megacenters, making it uniquely qualified to address customer service issues. Cingular's wireless LNP practices have resulted in some of the lowest transition complaints in the industry, and Cingular is also a leader in addressing wireless disability issues. Conversely, AWS has developed marketing practices and expertise in serving an extensive business customer base that will benefit the combined company.

20. These are but a few examples of best practices developed by each company. Other examples can be found in the areas of network operations and management, purchasing,



and general and administrative practices. The implementation of the best of these and other practices from each company will inure to the benefit of the combined company's subscribers.

21. Better, cheaper, more varied customer and network equipment. A broader selection of customer equipment, available at more competitive prices and containing more features demanded by consumers, will become available as the result of the combined company's enhanced purchasing power and larger customer base.

22. As a result of each of these pro-consumer synergies, long-term churn rates for the merged company are predicted to decline below what they would have been were the two companies to remain separate. This is due to the fact that some of the major drivers of total churn – network quality and coverage, service offerings, and customer service – will be addressed by the merger and the resulting larger nationwide footprint, simplified billing practices, and greater availability of advanced services. These lower churn rates are tied directly to enhanced customer satisfaction as a result of the pro-consumer benefits of the merger.

#### **IV. Pro-Competitive Synergies**

23. In addition, the merger will result in cost savings in a number of areas, making Cingular a more effective competitor in the nationwide mobile voice market and in the developing mobile data market. As a general matter, Cingular expects to generate operating and capital expense synergies of more than \$1 billion in 2006 and more than \$2 billion per year in the following years as a merged entity. These savings will afford the merged company additional capital resources to better compete in a vigorously competitive marketplace characterized by consistently and rapidly declining prices and the ready ability of consumers to switch providers if they are dissatisfied.

24. Reduction in capital expenditures. Cingular expects to generate average annual savings in capital expenditures of approximately \$0.8 - \$1.2 billion in both 2006 and 2007 alone as a merged entity. These savings, which will occur without any adverse effect on call quality or the availability of new services, are driven by a number of factors, including: diminished need for future capacity and coverage site (tower) additions, reduction of future equipment purchases (due to reusable duplicative capital equipment), greater equipment purchasing power, and network efficiencies from increased spectrum. Each of these driving factors is the result of the merger and collectively would not be achievable by either company on its own but for the merger.

25. Reduction in operational expenses. Cingular is also expected to realize annual operational synergy savings of approximately \$0.5 - \$0.8 billion in 2006 and \$1.2 - \$1.5 billion in 2007 alone as a merged entity. Currently, each company is operating as many as three networks (analog, TDMA and GSM), for a total of six networks combined in a given area. The merged company will be able to consolidate these networks system operations while eliminating unnecessary duplication in network engineering, all while providing better, more efficient services. The reduction in operating expenses is uniquely tied to the merger with AWS because of the complementary technologies and network protocols used by both companies; the ability to reduce duplication in these areas flows directly from the merger.

26. Reduction in costs per gross additional subscriber. As part of the reduction in operating expenses, the merged company will also see savings on new subscriber costs by optimizing sales and distribution channels, consolidating advertising and marketing costs, and realizing other marketing efficiencies, as well as through greater handset manufacturer discounts available because of volume pricing. These savings are direct consequences of the merger and

cannot be achieved through the purchase of spectrum alone; they are uniquely tied to the proposed merger.

27. Reduction in maintenance/administrative costs. Reduced operating expenses will also include savings in the areas of billing, customer service, and corporate/administration, as a result of the implementation of best practices from the two companies and as the new company evolves into a more efficient corporate structure and duplicative/redundant functions are eliminated. The incorporation of the best practices from each company, and the cost savings that flow therefrom, are a unique benefit of the merger. This is likewise the case with regard to the elimination of duplicative/redundant functions that would not occur but for the merger.

#### **V. Conclusion**

28. In sum, these synergies will provide customers from both companies with broader coverage, better service, enhanced features and equipment, and improved customer service. At the same time, they will enable Cingular to become a more effective nationwide mobile voice and data provider, able to more effectively compete with its nationwide competitors and offer consumers more choices.

I declare under penalty of perjury that the foregoing is true and correct.

Signature: /s/ Steve McGaw  
Steve McGaw  
Senior Vice President – Corporate Development  
Cingular Wireless LLC

Date: March 17, 2004



**DECLARATION OF MARC P. LEFAR**  
**Chief Marketing Officer, Cingular Wireless LLC**

I, Marc P. Lefar, hereby declare the following:

**Position and Qualifications**

1. I am Chief Marketing Officer of Cingular Wireless LLC ("Cingular"), reporting directly to the company's Chief Operating Officer. In this position, I am responsible for all aspects of Cingular's brand management as well as marketing direction and execution. I direct marketing strategy and programs, brand development, advertising, service packages and offerings, new product development, market research, and customer communications.

2. I bring 18 years of marketing, financial, and operational experience to my current post. My experience in the telecommunications industry began with GTE Wireless, where I initially held local and regional management positions before becoming Vice President of Marketing. In that position, I was responsible for strategy development, voice and data product management, advertising, pricing, and promotion. After GTE's merger with Verizon, I became Vice President of Wireless Internet, Data Services and E-enablement, leading the development and launch of Verizon's first national Internet service. In 2000, I joined Cable & Wireless as Chief Marketing Officer where I was responsible for marketing strategy and plan implementation. I came to Cingular in 2003.

3. Before entering the telecommunications industry, I had 10 years of experience in brand management, operations, and finance, most of it with Procter & Gamble. I hold a Bachelor of Science degree in commerce from the McIntire School of Commerce at the University of Virginia.

## **Synopsis**

4. As Chief Marketing Officer, I track consumer views and demands, as well as competitors' offerings in the marketplace, in order to structure Cingular's service offerings and pricing. From a marketing perspective, Cingular needs to compete as effectively as possible in the primary areas of wireless customer demand: (1) nationwide coverage with few or no coverage holes or roaming charges; (2) a top-quality voice network; and (3) competitive pricing. To market their services successfully, Cingular and AWS both need to remain competitive in the deployment of third-generation ("3G") high-speed data services that customers are increasingly demanding, yet both carriers face constraints to do so as separate entities. Cingular also needs to offer consistent quality, features, functionalities, and services on a nationwide basis, including in rural America. Further, both Cingular and AWS need to address perceived issues regarding network quality. The merger will substantially improve Cingular's ability to successfully provide and market services that meet these areas of customer demand, thereby allowing it to compete more effectively in the highly competitive wireless marketplace. This merger will make Cingular a stronger competitor, thereby providing a more robust marketplace, driving towards innovation and greater value for consumers.

## **Advanced Services**

5. A significant trend in the use and marketing of wireless service is the rise of advanced, high-speed data services relative to voice services. Often referred to as 3G services, these include, for example, email, web browsing, transmission of pictures and video, games, and location-based services. In some foreign markets (e.g, Korea and Japan), wireless carriers' revenue growth rate from data services already has outstripped their revenue growth rate from voice services. The United States is showing similar trends, with average revenue per user

("ARPU") growth from data services already exceeding ARPU growth from voice services. From first quarter 2001 to third quarter 2003, U.S. wireless carriers' quarterly growth rate for voice ARPU ranged between -0.6% and 7.6%. During that same period, their quarterly growth rate for data ARPU ranged between 11.8% and 66.3%. Although the U.S. lags far behind other countries with regard to the availability of advanced wireless services, U.S. consumers are already demanding, for example, phones capable of taking and transmitting photos and of downloading ringtones, games, and graphics. In order for customers to experience optimal performance of these services and the services we plan to offer in the future, large amounts of bandwidth and new technology are required. A nationwide, mass-market wireless carrier cannot remain competitive without the ability to offer them to consumers.

6. As discussed in detail in the Hogg and Austin declaration, to offer data services, Cingular currently deploys the General Packet Radio Services ("GPRS") and is deploying the Enhanced Data Rates for GSM Evolution ("EDGE") technology on its GSM network. GPRS and EDGE permit the transmission of high speed data at rates up to 115 kbps for GPRS and 384-473 kbps for EDGE. Verizon Wireless already has deployed a new service – 1xEV-DO – that permits data transmission at a much faster rate (up to 2.4 mbps). Sprint has announced plans to deploy a similar service – 1xEV-DV – that also would offer consumers much faster data transmission (3.09 mbps) than available over either the Cingular or AWS networks. By comparison, a 1 MB file would take almost seven minutes to download utilizing GPRS versus 1.5 minutes utilizing EDGE and only 20 seconds utilizing 1xEV-DO. To compete with the new Verizon Wireless and Sprint offerings, Cingular plans on deploying the next generation Universal Mobile Telecommunications System ("UMTS") to permit data transmission at

comparable speeds.<sup>1</sup> It is my understanding that AWS, as a fellow GSM-based carrier, also is planning to use UMTS as its 3G solution.

7. As the Hogg and Austin declarations describe in more detail, given the spectrum capacity limitations currently faced by Cingular and AT&T as standalone entities, neither carrier can roll out UMTS widely without negatively affecting the quality and reliability of its wireless voice network. The complexity of this challenge is heightened by Cingular's need to support a substantial customer base on its legacy TDMA network and also fulfill FCC-imposed analog service requirements. By combining the spectrum assets of both companies, however, I am told that sufficient spectrum will exist in most geographic areas to deploy UMTS on an essentially national basis.<sup>2</sup> This will allow Cingular to bring to market the consumer benefit of an additional nationwide provider of mobile data service with a transmission rate of 2 Mbps or more. For Cingular and AWS, this capability is a marketing necessity.

#### **Nationwide Market**

8. In marketing its services, Cingular competes today with at least five other carriers that also market their services on a nationwide basis. Competition is fierce among these six national competitors, as well as with smaller regional competitors and "virtual" nationwide competitors.<sup>3</sup> Although these competitors employ a variety of technologies to offer their services, customers view these service offerings as generally interchangeable. Carriers like Cingular are under constant pressure to lower prices, improve service, add new services, and provide access to better devices in order to attract and retain customers. The advent of wireless local number

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<sup>1</sup> My colleagues, Messrs. Hogg and Austin, discuss the technical aspects of Cingular's network and service offerings in greater detail in their declarations. It is my understanding that the high-speed data platforms deployed by Cingular's competitors Verizon Wireless and Sprint can only be deployed on CDMA networks.

<sup>2</sup> See Declaration of William Hogg and Mark Austin.

<sup>3</sup> As described in greater detail in the Declaration of Richard J. Gilbert, Ph.D., a "virtual" wireless network operator is a carrier that operates as a reseller of one or more facilities-based wireless carriers, using its own brand identity and customer interface rather than that of the facilities-based carrier.



portability (“LNP”) in November 2003 has only made it easier for customers to switch carriers.<sup>4</sup> Cingular, like all of its nationwide competitors, spends an enormous amount of money on advertising and other efforts to market its services. A majority of Cingular’s investment in advertising has promoted products that are available on a nationwide basis, such as “rollover” minutes and family talk plans. Because of the way media is purchased, it is more economical to buy advertising at a national level than at a local level. Spending on national advertising to promote localized product offerings would be inefficient and could even be inappropriate (since it only creates problems to advertise a product in areas where it is not available). Since February 1, 2004, when Cingular began focusing its marketing efforts on national plans, the majority of Cingular’s advertising spending has promoted nationwide plans. The public perceives the advertising by Cingular’s major national competitors, such as Sprint and Verizon Wireless, as promoting nationwide coverage and national plans.

9. Although wireless carriers formerly focused their service offerings on local or regional calling plans, that has shifted dramatically. At least since AWS first offered its nationwide “One Rate” plan in 1998, carriers have focused their pricing plans on steadily larger areas. Most recently, the focus clearly has turned to nationwide plans. Carriers have found that consumers perceive significant value in receiving long distance service and broad geographic mobility at no additional charge. Carriers also have felt pressure to sell nationwide plans due to the decision of the market leader to capitalize on its extensive nationwide network by emphasizing such plans in its own marketing efforts. Cingular in particular found that customer confusion about the geographic boundaries of their rate plans and dissatisfaction with roaming charges when they inadvertently use their wireless phones outside of those boundaries leads to

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<sup>4</sup> Prior to the advent of LNP a substantial percentage of customers (approximately 40 percent of those surveyed) were reluctant to switch carriers because they would be required to change their phone numbers. *See, e.g.,* ex parte letter of Michael Mowery, General Counsel, Telephia, WT Docket No. 01-184 (filed Jan. 22, 2002).

significant customer dissatisfaction, as well as increased carrier call center volume and other customer care costs. Cingular has found that churn rates for regional plans are almost 50% greater than the churn rates for national plans. Cingular first promoted national plans in 2002 and, since February 1, 2004, has implemented a comprehensive strategy of selling predominantly national and large regional plans.

10. The evolution of the market from local and regional to national also can be seen in the mobile phones and other devices that carriers market to consumers. Just five years ago, a significant portion of Cingular's device sales consisted of car phones that were physically attached to a vehicle. Today, virtually all of Cingular's mobile devices are designed to be used on a hand-held basis. Advances in miniaturization of mobile devices and consumer demand have driven this change. Although a consumer can use a car for travel nationwide, consumers' ability to take their mobile handsets with them when traveling by air has contributed to customers' demand for, and carriers' marketing of, nationwide plans.

11. Consistent with the national orientation of industry marketing, the current pricing for nationwide calling plans makes them the best value proposition for most consumers. Today, a large and rapidly growing percentage of wireless customers purchasing service buy national pricing plans. During February 2004, over 60% of Cingular's new post-paid customers purchased national plans. During the current quarter, the percentage of new customers taking national plans is increasing disproportionately. In the six months from August 2003 to January 2004, Cingular's subscriber count for nationwide plans grew 11.6%, while its subscriber count for local and regional plans grew only 3%. At a national level, Cingular has articulated a goal of adding the vast majority of new customers to national plans by year-end 2004.

12. A relatively small and declining percentage of new customers still purchases regional plans, but the geographic scope even of those plans have grown in size in recent years. The price difference between national and regional plans has dropped to the point where national plans offer the best value for customers who travel even rarely. The smallest regional plans Cingular currently offers have a geographic scope encompassing at least an entire state, and in most cases multiple states. Like other carriers, Cingular continues to serve some customers under older plans with smaller local calling scopes, but does not sell these plans to new customers.

13. Cingular's pricing is narrowly constrained by national pricing which is prevalent throughout its service area. The FCC has noted that 83% of the population has five or more wireless carriers from which to choose. Also, the mobile nature of wireless service readily permits arbitrage in the event prices vary from one community to the next. There are very few areas that are so remote that customers cannot easily travel to an adjacent community if prices are significantly lower there (and agents could facilitate this process as well by activating numbers in one area and selling them in another). Consumers can and do turn to the Internet to compare prices and select a service provider, and thus can now shop for a new phone and service provider from wherever they happen to be. In addition, as noted above, Cingular relies heavily on national advertising to build brand recognition and, ultimately, subscribership. National advertising of prices significantly limits Cingular's flexibility to price national plans differently in particular areas. As a result, Cingular prices its national plans uniformly across the nation. It prices its regional plans (which, as noted above, are at least statewide, and in many cases larger) uniformly across each region – that is, all customers within a region will receive the same price.

As with the national plans, carriers' ability to vary prices for the regional plans is constrained by the potential for arbitrage.

14. Although this merger will bring the combined company many marketing benefits, I do not anticipate that it will permit it to raise prices without losing market share. The combined company will compete in a vigorous national market, including four other nationwide competitors not involved in this merger and numerous regional and local competitors. It also will face increasing competition at both national and regional levels from "virtual" network operators, who combine resold service from facilities-based wireless carriers with their own brand identity and, often, customer interface. There is no area where AWS is the only or even the primary source of Cingular's price competition. Wireless pricing is multi-faceted, incorporating pricing plans, handset prices and subsidies, features, network quality, and other issues.

#### **Nationwide Coverage**

15. Because of the strong consumer preference for nationwide plans, it is important for Cingular to offer nationwide coverage. This merger will greatly improve Cingular's ability to do so. The combined Cingular-AWS network will minimize coverage holes and roaming charges. It also will allow Cingular to offer a more uniform customer experience across its network, eliminating the inconsistencies that currently exist in areas where Cingular uses subsidized roaming service to fill in gaps in its own coverage.

16. In order to market its national plans effectively, a wireless carrier must possess a nationwide network, offering consistently high quality service with consistent features. Although generally identified as a "nationwide" carrier, Cingular currently has coverage in only

87 of the top 100 metropolitan areas.<sup>5</sup> At present, in the absence of a nationwide network, Cingular fills in coverage gaps by absorbing the cost of roaming on other carriers' networks. Roaming rates on other carriers' TDMA networks make it prohibitive to absorb them as a cost of providing a nationwide plan. Cingular has negotiated more favorable roaming rates with other GSM carriers, including AWS, but coverage remains incomplete, and roaming rates are still high. In addition, filling in coverage gaps with subsidized roaming service makes it difficult for Cingular to control the customer experience, including service availability, quality, and features. Examples of features that may not be available while roaming include access to email and other data services. My department's competitive market analysis indicates that AWS faces these same constraints and, in response, has chosen to offer a smaller footprint for the majority of its plans rather than assume the expense and relinquish control by absorbing the costs of roaming on other carriers' networks. Only through the merger of Cingular and AWS will there be a robust nationwide, facilities-based GSM/TDMA competitor.

17. Once this deal is consummated, the merged company's footprint will extend into 49 states. The merged company will have coverage in 97 of the top 100 metropolitan areas.<sup>6</sup> By expanding the footprint, roaming charges -- whether levied on subscribers or absorbed by the Company as part of pricing plans -- will be eliminated in many areas, including major cities such as Denver, Pittsburgh, Phoenix, and Minneapolis. This merger will eliminate these costs and allow the combined company to be a more efficient and effective competitor on a nationwide basis.

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<sup>5</sup> The excluded MSAs are Phoenix, AZ; Minneapolis, MN; Denver-Boulder, CO; Pittsburgh, PA; Norfolk, VA; Richmond, VA; Honolulu, HI; Grand Rapids, MI; Toledo, OH; Omaha, NE; Colorado Springs, CO; and Newport News, VA. Cingular has a transaction pending to purchase spectrum from NextWave in one additional MSA (El Paso, Texas). The Salt Lake City area, though licensed, is not yet operational.

<sup>6</sup> The top 100 MSAs that Cingular will still not serve after the transaction will be Norfolk, Richmond, and Newport News.

18. Another marketing advantage of a nationwide network with a larger customer base comes with the ability to market special features such as “push-to-talk” or buckets of mobile-to-mobile minutes. Nextel pioneered the push-to-talk feature, and many analysts believe it has been a key factor in Nextel’s growth over the last one to two years. Verizon Wireless recently began aggressively to market unlimited mobile-to-mobile minutes at no additional charge. Cingular’s current offerings include 1,000 included mobile-to-mobile minutes on nationwide GSM plans at the \$39.99 price level and 5,000 included mobile-to-mobile minutes on all nationwide GSM plans priced at \$49.99 and above.<sup>7</sup> Because currently push-to-talk and mobile-to-mobile features are only useable with customers of the same carrier, the value to consumers of these offerings is directly proportional to the number of other subscribers on the network. This merger will significantly increase Cingular’s customer base, which will allow it to create greater value in, and therefore compete more effectively with respect to, these popular service offerings. Because of the expanded customer base that will result, customers may have more opportunities for free mobile-to-mobile calls, resulting in reductions in the effective price per minute paid by all customers of both carriers who use these features, once the two carriers’ systems are integrated.

#### **Improved Service Quality**

19. Because the merger will increase the amount of spectrum and network infrastructure available to the merged company, consumers in these areas will experience improved service quality. As noted above, network and service quality is a primary factor driving consumer choice. As a result, it is highly relevant to a carrier’s ability to market its services. The combined networks of the two companies will fill coverage gaps within many service areas – dead spots will be reduced, thereby reducing the number of dropped calls. By

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<sup>7</sup> Cingular does not presently offer a push-to-talk feature.

overlaying the AWS network, Cingular will be able to address quality concerns by improving capacity through trunking efficiencies and expanding coverage in these areas, providing better service to the current customers of both carriers.<sup>8</sup> From a marketing perspective, both Cingular and AWS have an immediate need for this improved quality and expanded coverage in order to address competitive difficulties that relate in large part to actual and perceived quality deficiencies. Consumer demand for advanced services, discussed above, also is immediate. From a marketing perspective, I concur with the statements made by my colleagues, Messrs. McGaw and Hogg, regarding the benefits that will come through this merger due to the acquisition of substantial network infrastructure in addition to spectrum. By combining two compatible networks, including both spectrum and infrastructure, the proposed merger will permit Cingular to bring all these benefits to market in a manner that could not come as quickly, if at all, through other means. It is critical, from a marketing perspective, for the company to respond to these demands *and* to respond to them as rapidly as possible.

#### **Device Interfaces**

20. Another advantage of this merger from a consumer and marketing perspective is that the larger scale of the combined entity will permit the merged company to work with device manufacturers to customize device interfaces to its service offerings. This can significantly improve the customer experience and permit more effective marketing of the carrier's data-enabled services. Potential examples could include a button on a phone that connects directly with Cingular's web-based service to display the customer's current minute or account balance. This approach has proven very popular internationally. For example, European carriers Orange, Vodafone, and T-Mobile have successfully used device interfaces corresponding to its service

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<sup>8</sup> This is explained more fully in the Declaration of William Hogg and Mark Austin, addressing technical and network issues.

offerings to differentiate their products in the marketplace. The scale of the combined entity will improve Cingular's ability to work with handset vendors on these kinds of offerings and make it more economically viable for Cingular to develop them.

#### **Conclusion**

21. This merger will allow the combined entity to provide greater value to consumers and therefore market its services more effectively. The combined entity will possess sufficient spectrum and infrastructure to remain competitive in the transition to 3G services, which are the future of wireless service. It also will be able to provide the nationwide service that customers demand on a higher-quality voice network. Neither Cingular nor AWS alone has the resources to meet all of these needs effectively, but the combined entity will be able to do so.

I declare under penalty of perjury that the foregoing is true and correct.

Signature: Marc P. Lefar  
Marc P. Lefar  
Chief Marketing Officer  
Cingular Wireless LLC

Date: March 17, 2004



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